

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
WACO DIVISION**

SVETLANA PRIVETTE
Plaintiff

V.

LOWE'S COMPANIES, INC.
Defendant

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CIVIL ACTION NO: 6:18-cv-360

NOTICE OF REMOVAL OF ACTION UNDER 28 U.S.C. § 1446(a) DIVERSITY

TO THE HONORABLE JUDGE OF THE UNITED STATES DISTRICT COURT:

PLEASE TAKE NOTICE that Defendant, Lowe's Home Centers, LLC, incorrectly named Lowe's Companies, Inc., HEREBY FILES ITS NOTICE OF REMOVAL, and Removes this matter to this Court the state court action described below:

1. On November 13, 2018, an action was commenced in the 146th Judicial District Court of the State of Texas in and for Bell County, Texas, entitled SVETLANA PRIVETTE vs. LOWE'S COMPANIES, INC., ("Lowe's"), as Cause Number 304,519-B. A copy of Plaintiff's Original Petition is attached hereto as Exhibit "A".
2. Defendant was served with suit on November 21, 2018.
3. Defendant filed an Original Answer on December 6, 2018, a copy of which is attached hereto as Exhibit "B".
4. This action is a civil action of which this Court has original jurisdiction under 28 U.S.C. §1332 and is one which may be removed to this Court by Defendant pursuant to the provisions of 28 U.S.C. §1332 (a) in that it is a civil action between citizens of states other than Texas and citizens or subjects of a foreign state, and the matter in controversy exceeds the sum of \$75,000.00 exclusive of interest and costs. Plaintiff's claims are based on alleged injuries suffered by SVETLANA PRIVETTE on Defendant's premises.
5. Defendant, Lowe's Home Centers, LLC, was, at the time of the filing of this action, and still is, a citizen of North Carolina, because it is a limited liability company organized under the laws of North Carolina and having its principal place of business in the State of North Carolina. Defendant Lowe's Home Centers, LLC was previously known as Lowe's Home Centers, Inc., and was also incorporated under

the laws of the State of North Carolina and having its principal place of business in the State of North Carolina. Defendant Lowe's Home Centers, LLC is a citizen of North Carolina because it is a limited liability company organized under the laws of North Carolina and because none of its members are residents of the state of Texas. For purposes of determining diversity of citizenship, a limited liability company is deemed a citizen of the states where its members are citizens. *See Basurto v. Mervyn's, LLC*, 2007 WL 390711 at * 1(N.D. Tex.2007).

6. Removal is proper because there is complete diversity between the parties under 28 U.S.C. §1332(a). Defendant is a limited liability company and therefore its citizenship is determined by the citizenship of its members. *See, e.g., Harvey v. Grey Wolf Drilling Co.*, 542 F.3d 1077, 1080 (5th Cir. 2008). The sole member of Lowe's Home Centers, LLC is Lowe's Home Centers, Inc., a corporation incorporated under the laws of the State of North Carolina, with its principal place of business in North Carolina. 28 U.S.C. § 1332(a, c); *Hertz Corp. v. Friend*, 559 U.S. 77, 92-93 (2010) (corporation's principal place of business is the place from which the corporation is controlled). Lowe's Home Centers, Inc. is therefore a citizen of North Carolina and of no other state. Because Defendant, Lowes Home Centers, Inc. takes the citizenship of its sole member, Lowes Home Centers, LLC is therefore also a citizen of North Carolina and of no other state.
7. Defendant is removing this case within the 30-day period stipulated by the rules.
8. All pleadings, process, orders, and all other filings in the state court action are attached to this notice as required by 28 U.S.C. § 1446(a).
9. Venue is proper in this district under 28 U.S.C. §1441(a) because this district and division embrace the place in which the removed action has been pending.
10. Defendant will promptly file a copy of this notice of removal with the clerk of the state court in which the action is pending.
11. In accordance with 28 U.S.C. §1441(a), this matter is being removed to U.S. District Court for the Western District of Texas, Waco Division because this court is the court for the district and division embracing the place where such action is pending, i.e., Waco, Texas.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing instrument was served in accordance with the Federal Rules of Civil Procedure, this 10th day of December, 2018 on the following counsel of record, properly addressed as follows:

Served Via: Email
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